

United States Congress

August 24, 2010

FB
TCPA
1444

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street SW
Room 8-B201
Washington, D.C. 20554

Dear Chairman Genachowski:

We are writing regarding the Commission's Further Notice of Proposed Rulemaking in docket number 02-278. We are pleased that the Commission is working to harmonize the FCC and FTC rules under the Telephone Consumer Protection Act (TCPA) governing auto-dialed and prerecorded commercial telemarketing sales calls.

Technology has advanced far beyond what any of us could have anticipated when the TCPA was passed in 1991. However, the intent was clearly not to restrict such advancements, but rather give consumers greater control and more information about the telemarketing calls they receive. TCPA established policies to rightfully prevent intrusive computer-generated calls for which the called party has no means of "escape," in which the consumer receives one-way communication without the ability to speak with a live operator or customer service representative. Since that time, telemarketing technology has advanced tremendously and these advancements have made customer interaction better and more efficient.

CallAssistant LLC, based in our home state of Utah, is a leading developer of technology to allow human-to-human interaction on each call, while utilizing operator-supervised prerecorded call segments to maximize the effect of the call. CallAssistant LLC submitted reply comments to FCC in June 2010, requesting the Commission clarify the applicability of TCPA as appropriate to operator-supervised calls using prerecorded call segments. We echo their request.

The new technology deployed by CallAssistant and others enables calling agents to interact with the recipient of a call using his or her own voice or by substituting appropriate audio recording of a response. At all times, even during the playing of any recorded segment, the agent retains the power to interrupt the recorded message and respond directly and personally to the consumer. Live agents hear every word spoken by the call recipient, and determine what is said and are able to respond; further, a single agent always stays with a call from beginning to end.

We support efforts made to give consumers better information and options to participate or opt out of telemarketing calls. We look forward to the Commission's timely clarification on this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert F. Bennett", written over a horizontal line.

Senator Robert F. Bennett
United States Senate

A handwritten signature in blue ink, appearing to read "Orrin Hatch", written over a horizontal line.

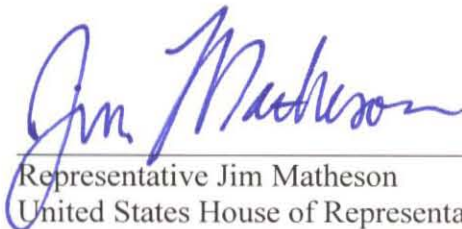
Senator Orrin G. Hatch
United States Senate

A handwritten signature in blue ink, appearing to read "Rob Bishop", written over a horizontal line.

Representative Rob Bishop
United States House of Representatives

A handwritten signature in blue ink, appearing to read "Jason Chaffetz", written over a horizontal line.

Representative Jason Chaffetz
United States House of Representatives

A handwritten signature in blue ink, appearing to read "Jim Matheson", written over a horizontal line.

Representative Jim Matheson
United States House of Representatives

RFB:nc



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 28, 2010

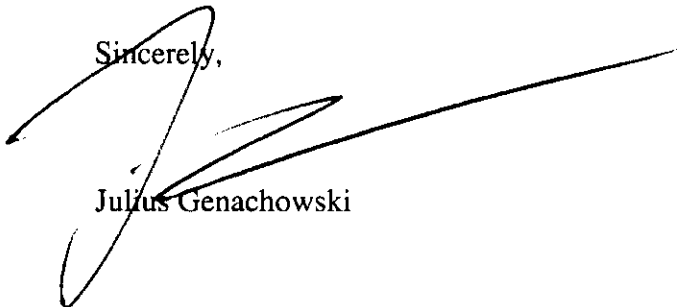
The Honorable Robert F. Bennett
United States Senate
431 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Bennett:

Thank you for your letter regarding Call Assistant, LLC and our implementation of the Telephone Consumer Protection Act. I understand your concerns and have asked the Consumer and Governmental Affairs Bureau to reply to your letter. The Bureau's response is attached for your information and review.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,



Julius Genachowski

Enclosure



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

September 28, 2010

The Honorable Robert F. Bennett
United States Senate
431 Dirksen Senate Office Building
Washington, D.C. 20510-4403

Dear Senator Bennett:

Thank you for your letter regarding your constituent, Call Assistant, LLC (Call Assistant), and the reply comments that it recently filed to the Further Notice of Proposed Rulemaking (Further Notice) in CG Docket No. 02-278. In particular, you support Call Assistant's request that the Federal Communications Commission clarify the applicability of the Telephone Consumer Protection Act (TCPA) and the Commission's implementing rules to operator-supervised calls using prerecorded call segments. Chairman Julius Genachowski has asked me to respond to your inquiry on his behalf.

To explain the technology it employs in initiating calls to consumers, representatives from Call Assistant have, during the past three months, met with FCC staff of both the Consumer and Governmental Affairs Bureau (CGB) and the Enforcement Bureau. We appreciate the time that Call Assistant took to describe and demonstrate its technology for the staff, and we expect that these presentations will help the Commission make a timely and informed decision that duly takes into account the company's reply comments. Furthermore, we have added your supporting letter to the record for CG Docket No. 02-278, and CGB will give full consideration to it as we craft recommendations for the Commission's resolution of the issues raised in the Further Notice. We likewise support the TCPA's goal of giving consumers greater control and more information about the telemarketing calls they receive.

Thank you for your interest in the Commission's rules implementing the TCPA and the impact of the TCPA on new technologies. Please do not hesitate to contact me with further questions at (202) 418-0816.

Sincerely,

Mark Stone
Deputy Chief
Consumer & Governmental Affairs Bureau